

ENTERED

May 21, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

MARTIN AGUILLON, JR.,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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§Civil Case No. 7:23-CV-00266
Consolidated with 7:23-CV-00295**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the May 2, 2024, Report and Recommendation (“R&R”) prepared by Magistrate Judge Juan F. Alanis. (Dkt. No. 10). Aguillon filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by A Person in State Custody, (7:23-CV-00295, Dkt. No. 1), Respondent filed an answer and supporting brief requesting dismissal with prejudice, (Dkt. No. 8), and Petitioner replied, (Dkt. No. 9). Judge Alanis made findings and conclusions and recommended that Aguillon’s Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by A Person in State Custody, (7:23-CV-00295, Dkt. No. 1), be denied as time-barred and that Respondent’s request for dismissal with prejudice be granted. (Dkt. No. 10).

The Parties were provided proper notice and the opportunity to object to the R&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). No party filed an objection. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005). No plain error appears.

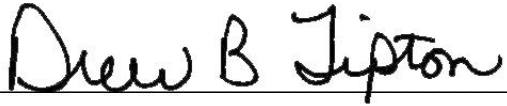
Accordingly, the Court accepts the R&R and adopts it as the opinion of the Court.

It is therefore ordered that:

- (1) Judge Alanis's R&R (Dkt. No. 10) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Aguillon's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by A Person in State Custody, (7:23-CV-00295, Dkt. No. 1), is **DENIED**; and
- (3) Respondent's request for dismissal with prejudice, (Dkt. No. 8 at 6), is **GRANTED**; and
- (4) The Court **DENIES** a certificate of appealability in this matter.

It is SO ORDERED.

Signed on May 21, 2024.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE